

§ 5. VERIFIED EXPENSE ACCOUNT.] Immediately upon such judge of the district court affixing his signature to said order of the state's attorney, said judge, if in his opinion the public interest will not be prejudiced thereby, and if he be of the opinion that the public interest will be prejudiced thereby, then as much as the public interest will permit, shall file in the office of the county auditor of the county on which said order is drawn said itemized and verified statement so made by said state's attorney.

§ 6. UNEXPENDED BALANCES.] Any sum remaining in said fund on the 31st day of January of each year shall then be transferred by the county auditor to the general county revenue fund of said county.

§ 7. AVAILABLE IN 1907.] During the year of 1907 the expenses mentioned in section one of this act shall be paid in the manner provided for herein, from any funds in the county treasury not specifically appropriated or set aside for other purposes.

Approved March 13, 1907.

COURTS

CHAPTER 77.

[H. B. No. 206—Buttz]

EXPENSES DISTRICT JUDGES.

AN ACT Fixing the Salaries and Providing for the Payment of Necessary Expenses for the Judges of the District Courts of the State of North Dakota.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. PERSONAL EXPENSES.] Each judge of the district court shall, during his present term of office, receive the sum of five hundred dollars per annum for the purpose of defraying the personal expenses of such judge when away from home in the discharge of the duties pertaining to his office, and for other necessary expenses, such amount to be paid in the same manner as other state officers are paid; but the provisions of this section shall not apply to judges hereafter elected.

§ 2. SALARY.] The judges of the district courts shall receive an annual salary of four thousand dollars, the payment thereof to begin at the expiration of the term of each of the present incumbents, and until the expiration of the present term of each of said judges he shall receive an annual salary of three thousand five hundred dollars.

§ 3. REPEAL.] All acts and parts of acts inconsistent with this act are hereby repealed.

§ 4. EMERGENCY.] An emergency exists in this, that there is no provision of law providing for the payment of the necessary expenses of judges of the district courts, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 12, 1907.

CHAPTER 78.

[S. B. No. 31—Purcell]

ARRAIGNMENT IN DISTRICT COURT.

AN ACT to Amend Section 9885 of the Revised Codes of 1905, Relating to Arraignment.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 9885 of the revised codes of 1905, relating to arraignment, is amended and re-enacted so as to read as follows:

§ 9885. HOW ARRAIGNMENTS MADE.] The arraignment must be made by the court or by the clerk or state's attorney under its direction, and consists of reading the information or indictment to the defendant, delivering to him or his counsel, a true and correct copy of the information or indictment, with all indorsements, and asking him whether he pleads guilty or not guilty to the information or indictment.

§ 2. EMERGENCY.] Whereas, an emergency exists in this, that there is no law requiring the state to provide the defendant with a copy of the indictment or information, therefore this act shall take effect immediately upon its passage and approval.

Approved February 16, 1907.

CHAPTER 79.

[S. B. No. 280—Purcell]

APPEALS TO SUPREME COURT.

AN ACT to Amend Subdivision 3 of Section 7225 of the Revised Codes of 1905 of North Dakota, Relating to Appeals to the Supreme Court From Order Made in Certain Cases.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 7225 of the revised codes of the state of North Dakota, as revised in 1905, is hereby amended so as to read as follows:

§ 7225. WHAT ORDERS REVIEWABLE.] The following orders when made by the court may be carried to the supreme court:

1. An order affecting a substantial right made in any action, when such order in effect determines the action and prevents a judgment from which an appeal might be taken.

2. A final order affecting a substantial right made in special proceedings or upon a summary application in an action after judgment.

3. When an order grants, refuses, continues or modifies a provisional remedy, or grants, refuses, modifies or dissolves an injunction or refuses to modify or dissolve an injunction, whether such injunction was issued in an action or special proceeding or pursuant to the provisions of section 7454 of this code; when it sets aside or dismisses a writ of attachment for irregularity; when it grants or refuses a new trial or when it sustains or overrules a demurrer.

4. When it involves the merits of an action or some part thereof; when it orders judgment on application therefor on account of the frivolousness of a demurrer, answer or reply on account of the frivolousness thereof.

5. Orders made by the district court or judge thereof without notice are not appealable; but orders made by the district court after a hearing is had upon notice which vacate or refuse to set aside orders previously made without notice may be appealed to the supreme court when by the provisions of this chapter an appeal might have been taken from such order so made without notice, had the same been made upon notice.

§ 2. EMERGENCY.] Whereas, an emergency exists in this, that under the laws of this state as they now exist and are construed by the courts thereof there is no appeal to the supreme court from an order refusing to dissolve or modify an injunction issued pursuant to the provisions of section 7454 of the revised codes of North Dakota, therefore this act shall take effect from and after its passage and approval.

Approved March 19, 1907.

CHAPTER 80.

[H. B. No. 237—J. A. Sorley]

STENOGRAPHER FOR SUPREME COURT.

AN ACT to Amend Section 444 of the Revised Codes of North Dakota for 1905, Relating to the Employment of Stenographer by the Supreme Court.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 444 of the revised codes of North Dakota for 1905 is hereby amended so as to read as follows:

§ 444. **BILLS FOR SERVICE.]** The bills for services rendered by any stenographer so employed after being verified by the affidavit of the stenographer and certified to as correct by the court or any judge thereof, shall be audited by the state auditor and a warrant drawn therefor.

§ 2. **EMERGENCY.]** Whereas, an emergency exists in this, that there is no adequate provision for the payment of a stenographer, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 12, 1907.

CHAPTER 81.

[S. B. No. 124—Simpson]

PROCEDURE IN JUSTICE COURT.

AN ACT Providing That in Actions Hereafter Brought in the Justice Courts of this State, Filing of an Affidavit of the Amount Due Shall Be Considered as Prima Facie Evidence of the Indebtedness Sued On.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **AFFIDAVIT OF AMOUNT DUE PRIMA FACIE EVIDENCE.]** In all actions hereafter brought before justices of the peace in this state upon an open account or upon an account stated, if the plaintiff or some one in his behalf shall make affidavit of the amount due, over and above all legal set-offs and annex thereto a copy of said account, and cause a copy of said affidavit and account to be served upon the defendant with a copy of the summons in such action, such affidavit shall be prima facie evidence of such indebtedness, unless the defendant in his answer shall, by himself or someone in his behalf, specifically deny the same and verifies the said answer by his oath.

§ 2. **REPEAL.]** All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 19, 1907.

CHAPTER 82.

[S. B. No. 127—Purcell]

EXPENSES JUDGES SUPREME COURT.

AN ACT to Reimburse Judges of the Supreme Court for Their Actual and Necessary Expenses While Absent From Home in the Discharge of Official Duties.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **EXPENSES PAID.]** Each judge of the supreme court of this state shall receive the sum of five hundred dollars per annum for

traveling expenses and moneys expended by him while absent from his home and while engaged in the discharge of his official duties, to be paid in quarterly payments without filing any itemized statement.

§ 2. EMERGENCY.] Whereas, there is no law now in force providing for the payment of such expenses, now therefore an emergency is hereby declared to exist, and this act shall take effect and be in force from and after its passage and approval.

Approved March 19, 1907.

CHAPTER 83.

[H. B. No. 290—Grant]

CHANGE OF VENUE IN GARNISHMENT.

AN ACT Providing that When a Change of Venue Is Obtained in a Civil Action Pending in a Justice's Court of this State that Garnishment Proceedings Had in Such Action Shall Be Transferred with Such Action and that Such Change of Venue Shall Carry with it the Garnishment Proceedings in the Action in Which the Change of Venue Is Obtained.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. GARNISHMENT PROCEEDINGS TRANSFERRED. DUTY OF JUSTICE.] Whenever a change of venue is obtained in any civil action, pending in any justice's court in this state, in which action the plaintiff has proceeded by garnishment and has caused a garnishee summons to be issued, the garnishee proceedings in such action shall be transferred with such original action and such change of venue shall carry with it all proceedings already had therein and any disclosure of the garnishee made therein; and the justice of the peace ordering the transfer shall immediately transmit to the justice of the court to which such action is transferred, all the papers relating to such garnishment proceedings together with a certified transcript from his docket of the proceedings had in such garnishment proceedings; and if at the time such change of venue is obtained, the disclosure of the garnishee in such action has not been fully made, the justice of the court to which the action is transferred, shall upon receipt by him of the papers in the case, serve upon all the parties to the action, including the garnishee, or upon the respective agents or attorneys of said parties for them, a written notice of such transfer specifying the court to which such action has been transferred and the time when such garnishee shall appear and disclose or complete the disclosure in such action; and such notice must be served upon the parties and the garnishee in the manner hereinbefore provided, at least one day before the time fixed for hearing or completing the disclosure of such garnishee.

Approved March 13, 1907.

CHAPTER 84.

[H. B. No. 176—Shirley]

CHANGE OF VENUE IN DISTRICT COURT.

AN ACT to Amend Section 9929 of the Revised Codes of 1905 of the State of North Dakota, Relating to Prejudice of Judge.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 9929 is amended to read as follows:

§ 9929. PREJUDICE OF JUDGE. AFFIDAVIT. PROCEDURE.] Whenever the defendant, or a defendant, in a criminal action shall file his affidavit stating that he has good reason to believe and does believe that he cannot have a fair and impartial trial of such action on account of the prejudice of the judge of the district court in which said action is pending, the court shall thereafter proceed in said action as follows:

1. If the defendant, or defendants, asks for a change of the place of trial of said action on any of the grounds specified in section 9919, and also for the cause mentioned in this section, it shall be the duty of the court to order said action removed for trial to some other county or judicial subdivision in this state, as provided in this article, and to request, [arrange for and procure some other judge than the one objected to,] to preside at the trial of said action; or,

2. If a change is asked for only on account of the cause mentioned in this section, the court in which said action is pending may order said action removed to a county or judicial subdivision in an adjoining judicial district in which it can be conveniently and expeditiously tried before another judge, or may request, arrange for and procure the judge of another judicial district to preside at said trial in the county or judicial subdivision in which the action is pending. A change upon the ground in this section provided for must be asked before the trial is begun and not more than one change can be granted therefor; but if a trial has been had without a verdict, or if for any reason a new trial shall be granted, whether such trial had shall have been had before or after a change of the place of trial for any of the causes mentioned in this article shall have been had, another change for any of the causes mentioned in this article may be had if asked for before another trial of the action is begun.

Approved March 13, 1907.

CHAPTER 85.

[H. B. No. 175—Shirley]

CHANGE OF PLACE OF TRIAL.

AN ACT to Amend Section 9921 of the Revised Codes of the State of North Dakota of 1905, Relating to the Removal of Action.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 9921 is amended to read as follows:

§ 9921. COURT MUST ORDER ONLY ONE CHANGE.] The court being satisfied that cause exists therefor, as defined in section 9919, must order a change of the place of trial to some county or judicial subdivision where the cause complained of does not exist. But the defendant shall be entitled to only one change of the place of trial; provided, that in event a trial of said action shall have been had after the original place of trial of said action shall have been changed by order of the court, and no verdict shall be returned in such trial, or in case a verdict shall have been returned, the same shall have been set aside for any reason whatever, or a new trial granted, the defendant shall be entitled to another change of the place of trial with the same force and effect as though no change of the place of trial shall have been made.

Approved March 13, 1907.

CHAPTER 86.

[S. B. No. 213—Purcell]

CHANGE OF VENUE.

AN ACT to Amend Section 9921 of the Revised Codes of the State of North Dakota, Relative to Change of Place of Trial.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 9921 is amended to read as follows:

§ 9921. COURT MUST ORDER. ONLY ONE CHANGE.] The court being satisfied that cause exists therefor, as defined in section 9919, must order a change of the place of trial to some county or judicial subdivision where the cause complained of does not exist. But the defendant shall be entitled to one change of the

place of trial; provided, that in event a trial of said action shall have been had after the original place of trial of said action shall have been changed by order of the court, and no verdict shall be returned in such trial, or in case a verdict shall have been returned and the same shall have been set aside for any reason whatever, or a new trial granted, the defendant shall be entitled to another change of the place of trial with the same force and effect as though no change of the place of trial shall have been made.

§ 2. EMERGENCY.] Whereas, there is no adequate law now existing covering the matter herein mentioned, an emergency exists, therefore this act shall be in force and take effect from and after its passage and approval.

Approved March 19, 1907.

CHAPTER 87.

[H. B. No. 52—Deane]

HARD LABOR IN COUNTY JAIL.

AN ACT Providing that Whenever Any Court in Passing Sentence on Any Person Convicted of a Misdemeanor Sentences Such Person to Confinement in the Court Jail the Court Shall, if in His Opinion Such Person is Capable of Performing Manual Labor, Sentence Such Person to Confinement in the County Jail at Hard Labor.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. HARD LABOR IN COUNTY JAIL.] Whenever any court in passing sentence on any person convicted of a misdemeanor sentences such person to confinement in the county jail, the court shall, if in his opinion such person is capable of performing manual labor, sentence such person to confinement in the county jail at hard labor.

§ 2. DUTY OF SHERIFF.] Whenever any person is sentenced to confinement in the county jail at hard labor, the sheriff of such county shall enforce such sentence in accordance with the provisions of section 10442 of the revised codes of North Dakota of 1905.

Approved March 13, 1907.

CHAPTER 88.

[H. B. No. 108—Dean]

TIME FOR RENDERING JUDGMENT IN CRIMINAL CASES.

AN ACT Amending Section 10088 of the Revised Codes of 1905, Relating to Criminal Procedure.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 10088 of the revised codes of North Dakota of 1905 is amended to read as follows:

§ 10088. TIME SPECIFIED.] The time appointed must be at least two days after the verdict, if the court intends to remain in session so long, or if not, at as remote a time as can reasonably be allowed; provided, that if, for any cause, judgment cannot be rendered during the term, judgment may be rendered at any subsequent term.

Approved March 13, 1907.

CHAPTER 89.

[S. B. No. 136—Thatcher]

FEES FOR INTERPRETERS.

AN ACT to Amend and Re-enact Section 2625 of the Revised Codes of 1905, Relating to Fees for Interpreters.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 2625 of the revised codes of 1905 be and the same is hereby amended and re-enacted so as to read as follows, viz:

§ 2625. FEES FOR INTERPRETERS.] Interpreters or translators may be allowed such compensation for their services as the court shall certify to be reasonable and just, to be paid and collected as other costs, but the same shall not exceed five dollars per day.

Approved March 7, 1907.